

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

DANNY RAY BARRETT, 37245-177,
Defendant.

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No. 3:11-CV-1789-B

RECOMMENDATION REGARDING APPLICATION TO PROCEED
IN FORMA PAUPERIS ON APPEAL
(for PLRA appeals)

Before the court is plaintiff's application to proceed *in forma pauperis* on appeal.

- (X) The application to proceed *in forma pauperis* on appeal should be DENIED for the following reasons:
- () The plaintiff is not a pauper.
- () The plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2). See Notice of Deficiency and Order filed on _____.
- () The plaintiff is barred from proceeding *in forma pauperis* on appeal because of the "three strikes" rule of 28 U.S.C. § 1915(g).
- (X) Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the court should certify that the appeal is not taken in good faith.
- (X) Although this appeal should be certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the plaintiff may challenge this finding pursuant to Baugh v. Taylor, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the plaintiff moves to proceed on appeal *in forma pauperis*, the prison authorities should be directed to collect the fees as calculated in this order pursuant to 28 U.S.C. § 1915(b)(1) & (2).
- (X) The plaintiff should be assessed an initial partial appellate fee of \$19.48.
- () The plaintiff is not assessed an initial partial appellate fee.
- (X) Thereafter, the plaintiff should pay \$ 435.52, the balance of the filing fee, in periodic installments.

DATE: January 10, 2013



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE